

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, INC. and BAYER HEALTHCARE LLC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
BAXTER INTERNATIONAL INC. and BAXTER HEALTHCARE CORPORATION,	)	Civil Action No. 05-349-GMS
	)	<u>Jury Trial Demanded</u>
Defendants.	)	
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BAXTER HEALTHCARE CORPORATION,	)	
	)	
Counterclaimant,	)	
	)	
v.	)	
	)	
TALECRIS BIOTHERAPEUTICS, INC. and BAYER HEALTHCARE LLC,	)	
	)	
Counterdefendants.	)	

**PLAINTIFFS' PROPOSED SPECIAL VERDICT FORM**

We, the jury, unanimously find as follows:

**1. PATENT INFRINGEMENT**

(a) Has Talecris proven by a preponderance of the evidence that Baxter literally infringes any of the following claims of United States Patent No. 6,686,191?

YES, infringement

NO, no infringement

Claim 1 \_\_\_\_\_

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Claim 7 \_\_\_\_\_

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Claim 8 \_\_\_\_\_

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Claim 9 \_\_\_\_\_

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Claim 10 \_\_\_\_\_

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Claim 12 \_\_\_\_\_

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Claim 15 \_\_\_\_\_

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Claim 16 \_\_\_\_\_

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Claim 17 \_\_\_\_\_

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Claim 18 \_\_\_\_\_

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Claim 19 \_\_\_\_\_

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Claim 20 \_\_\_\_\_

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(b) Has Talecris proven by a preponderance of the evidence that Baxter infringes, under the doctrine of equivalents, any of the following claims of the '191 patent?

YES, infringement

NO, no infringement

Claim 10 \_\_\_\_\_

\_\_\_\_\_

Claim 12 \_\_\_\_\_

\_\_\_\_\_

Claim 15 \_\_\_\_\_

\_\_\_\_\_

Claim 16 \_\_\_\_\_

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**2. WILLFUL INFRINGEMENT**

Please answer question 2 if you find that Baxter infringes any claim of the '191 patent.

**Question No. 2: Willful Infringement**

Has Talecris proven by clear and convincing evidence that Baxter willfully infringed the '191 patent?

YES, willful infringement             NO, no willful infringement

**3. INVALIDITY**

No matter how you answered questions 1 and 2, please answer the following questions regarding invalidity.

**A. Anticipation****Question No. 3(a)**

Has Baxter proven by clear and convincing evidence that any of the following asserted claims of the '191 patent are invalid because the claim is anticipated by the prior art?

YES, invalid

NO, valid

Claim 1 \_\_\_\_\_  
Claim 7 \_\_\_\_\_  
Claim 8 \_\_\_\_\_  
Claim 9 \_\_\_\_\_  
Claim 10 \_\_\_\_\_  
Claim 12 \_\_\_\_\_  
Claim 15 \_\_\_\_\_  
Claim 16 \_\_\_\_\_  
Claim 17 \_\_\_\_\_  
Claim 18 \_\_\_\_\_  
Claim 19 \_\_\_\_\_  
Claim 20 \_\_\_\_\_

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Please go on to the next question.

**B. Obviousness****Question No. 3(b)**

Has Baxter proven by clear and convincing evidence that any of the following asserted claims of the '191 patent are invalid because the claim is obvious?

YES, invalid

NO, valid

Claim 1 \_\_\_\_\_  
Claim 7 \_\_\_\_\_  
Claim 8 \_\_\_\_\_  
Claim 9 \_\_\_\_\_  
Claim 10 \_\_\_\_\_  
Claim 12 \_\_\_\_\_  
Claim 15 \_\_\_\_\_  
Claim 16 \_\_\_\_\_  
Claim 17 \_\_\_\_\_  
Claim 18 \_\_\_\_\_  
Claim 19 \_\_\_\_\_  
Claim 20 \_\_\_\_\_

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Please go on to the next question.

**C. Written Description**

**Question No. 3(c)**

Has Baxter proven by clear and convincing evidence that any of the following asserted claims of the '191 patent are invalid because the claim lacks written description?

YES, invalid

NO, valid

Claim 1	_____	_____
Claim 7	_____	_____
Claim 8	_____	_____
Claim 9	_____	_____
Claim 10	_____	_____
Claim 12	_____	_____
Claim 15	_____	_____
Claim 16	_____	_____
Claim 17	_____	_____
Claim 18	_____	_____
Claim 19	_____	_____
Claim 20	_____	_____

Please go on to the next question.

**D. Indefiniteness****Question No. 3(d)**

Has Baxter proven by clear and convincing evidence that any of the following asserted claims of the '191 patent are invalid because the claim is indefinite?

YES, invalid

NO, valid

Claim 1 \_\_\_\_\_  
Claim 7 \_\_\_\_\_  
Claim 8 \_\_\_\_\_  
Claim 9 \_\_\_\_\_  
Claim 10 \_\_\_\_\_  
Claim 12 \_\_\_\_\_  
Claim 15 \_\_\_\_\_  
Claim 16 \_\_\_\_\_  
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Please go on to the next question.

**4. DAMAGES**

If you find that Baxter has infringed any valid claim of the '191 patent, please answer the following questions.

**Question No. 4(a)**

What amount of damages, if any, has Talecris proven it is entitled to receive from Baxter based on sales of GAMMAGARD® LIQUID from September 26, 2005 to the present date?

\$ \_\_\_\_\_

**Question No. 4(b)**

What reasonable royalty, if any, has Talecris proven by a preponderance of the evidence?

\_\_\_\_\_ %

\* \* \*

Each juror must sign this verdict form to reflect that a unanimous decision has been reached.

Dated:

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## FOREPERSON

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**CERTIFICATE OF SERVICE**

I hereby certify on this 14th day of May, 2007 I electronically filed the foregoing **Plaintiffs' Proposed Special Verdict Form** with the Clerk of Court using CM/ECF which will send notification of such filing to the following:

Philip A. Rovner, Esquire Potter Anderson & Corroon LLP Hercules Plaza P. O. Box 951 Wilmington, DE 19899 (302) 984-6140 <a href="mailto:provner@potteranderson.com">provner@potteranderson.com</a>	Susan Spaeth, Esquire Townsend and Townsend and Crew LLP 379 Lytton Avenue Palo Alto, CA 94301-1431 (415) 576-0200 <a href="mailto:smSPAETH@townsend.com">smSPAETH@townsend.com</a>
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I also hereby certify that a true copy of the foregoing document was served upon the following in the manner indicated on May 14, 2007.

<b><u>Via Hand Delivery and E-Mail</u></b>	<b><u>Via Federal Express and E-Mail</u></b>
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